

FISHMAN'S DECLARATION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADAM WHITE, individually and on behalf of
all others similarly situated,

04 CV 1611 (LAK)

Plaintiff,

-against-

FIRST AMERICAN REGISTRY, INC.,
n/k/a FIRST ADVANTAGE SAFERENT, INC.,

Defendant.

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DECLARATION OF JAMES B. FISHMAN IN SUPPORT OF
THE PLAINTIFF'S MOTION FOR AN ORDER APPROVING
DISTRIBUTION OF *CY PRES* FUNDS

JAMES B. FISHMAN, declares under penalties of perjury, pursuant to 28
USC § 1746, that the following is true and correct.

1. I am a member of the bar of this Court and of the law firm Fishman &
Neil, LLP, co-counsel for the plaintiffs in this action.
2. I am fully, and personally, familiar with the facts and circumstances set
forth herein.

INTRODUCTION

3. This declaration is offered in support of the plaintiffs' motion for an order
approving the distribution of cy pres funds in accordance with the plan submitted
herewith.

4. The factual basis for this application is set forth in the plaintiffs' within

memorandum of law in support of their application.

5. Attached hereto as Exhibit A is a copy of the plaintiffs' second amended complaint.

6. Attached hereto as Exhibit B is a copy of the September 26, 2005 settlement agreement between the parties, executed in January 2006.

7. Attached hereto as Exhibit C is the November 27, 2006 Amendment No. 2 to the initial settlement agreement between the parties, executed in December 2006.

8. Attached hereto as Exhibit D is a copy of the Court's March 7, 2007 order certifying the class and approving the settlement of this action.

9. Attached hereto as Exhibit E is an accounting of the distribution of settlement funds to qualifying class members by the settlement administrator Garden City Group.

10. Attached hereto as Exhibit F is the plaintiff's proposed plan for distribution of **cy pres** funds.

11. Attached hereto as Exhibit G is my September 17, 2007 letter to Jonathan Marks, the mediator in this action.

12. Attached hereto as Exhibit H is a copy of my September 27, 2007 e-mail to the defendant's counsel.

13. Attached hereto as Exhibit I is a copy of my April 8, 2008 letter to the defendant's counsel.

14. Attached hereto as Exhibit J is a copy of my April 25, 2008 letter to the defendant's counsel.

WHEREFORE, it is respectfully requested that the Court issue an order approving the plaintiff's plan for distribution of **cy pres** and granting such other relief as may be just.

Dated: New York, New York
November 25, 2008


JAMES B. FISHMAN